

By: Israel

H.B. No. 3495

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to unprofessional conduct by mental health providers who  
3 attempt to change the sexual orientation of a child; providing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Chapter 105, Occupations Code, is  
7 amended to read as follows:

8 CHAPTER 105. UNPROFESSIONAL CONDUCT BY CERTAIN PROVIDERS [~~HEALTH~~  
9 ~~CARE PROVIDER~~]

10 SECTION 2. Chapter 105, Occupations Code, is amended by  
11 designating Sections 105.001 and 105.002 as Subchapter A and adding  
12 a subchapter heading to read as follows:

13 SUBCHAPTER A. UNPROFESSIONAL CONDUCT BY HEALTH CARE PROVIDER

14 SECTION 3. Section 105.001, Occupations Code, is amended to  
15 read as follows:

16 Sec. 105.001. DEFINITION. In this subchapter [~~chapter~~],  
17 "health care provider" means a person who furnishes services under  
18 a license, certificate, registration, or other authority issued by  
19 this state or another state to diagnose, prevent, alleviate, or  
20 cure a human illness or injury.

21 SECTION 4. Chapter 105, Occupations Code, is amended by  
22 adding Subchapter B to read as follows:

23 SUBCHAPTER B. UNPROFESSIONAL CONDUCT BY MENTAL HEALTH PROVIDER

24 Sec. 105.051. DEFINITIONS. In this subchapter:

1           (1) "Child" means an individual younger than 18 years  
2 of age.

3           (2) "Gender identity or expression" means a person's  
4 having, or being perceived as having, a gender-related identity,  
5 appearance, expression, or behavior, whether or not that identity,  
6 appearance, expression, or behavior is different from that commonly  
7 associated with the person's assigned sex at birth.

8           (3) "Mental health provider" means a:

9                   (A) chemical dependency counselor licensed under  
10 Chapter 504;

11                   (B) licensed professional counselor licensed  
12 under Chapter 503;

13                   (C) marriage and family therapist licensed under  
14 Chapter 502;

15                   (D) nurse licensed under Chapter 301;

16                   (E) physician licensed under Subtitle B;

17                   (F) psychologist licensed under Chapter 501;

18                   (G) sex offender treatment provider licensed  
19 under Chapter 110;

20                   (H) social worker licensed under Chapter 505;

21                   (I) special officer for offenders with mental  
22 impairments certified under Section 1701.404; or

23                   (J) another person licensed by this state to  
24 provide professional therapy or counseling services.

25           (4) "Sexual orientation" means the actual or perceived  
26 status of an individual with respect to the individual's sexuality.

27           Sec. 105.052. UNPROFESSIONAL CONDUCT. (a) A mental health

1 provider engages in unprofessional conduct if, in the course of  
2 providing services to a child or minor, the mental health provider  
3 attempts to:

4 (1) change the child's or minor's sexual orientation,  
5 including by attempting to change the child's or minor's behavior or  
6 gender identity or expression; or

7 (2) eliminate or reduce the child's or minor's sexual  
8 or romantic attractions or feelings toward individuals of the same  
9 sex.

10 (b) Subsection (a) does not apply to counseling that:

11 (1) provides acceptance, support, and understanding  
12 of a child or minor or facilitates a child or minor's coping, social  
13 support, and identity exploration and development, including  
14 sexual orientation-neutral interventions to prevent or address  
15 unlawful conduct or unsafe sexual practices, if that counseling  
16 does not seek to change sexual orientation or gender identity; or

17 (2) provides support to a child or minor undergoing  
18 gender transition in accordance with established standards of care.

19 (c) A mental health provider who commits unprofessional  
20 conduct under Subsection (a) is subject to disciplinary action by  
21 any state regulatory entity with the power to take disciplinary  
22 action against that mental health provider.

23 SECTION 5. This Act takes effect September 1, 2015.